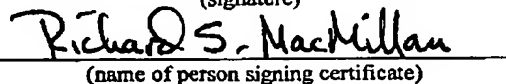


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Date: November 13, 2006 No. of Pages: 3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
JUAN F. VALDEZ)	Group Art Unit 3726
)	
Serial No. 10/728,713)	Examiner John C. Hong
)	
Filed: December 5, 2003)	Confirmation No. 1743
)	
For: METHOD OF SECURING A BODY)	Attorney Docket 1-23716
MOUNT SUPPORT BRACKET ON A)	
VEHICLE BODY AND FRAME ASSEMBLY)	

Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW
AND REMARKS ACCOMPANYING REQUEST

Honorable Sir:

The applicant respectfully requests review of the Final Rejection of the Examiner dated July 11, 2006 in the above-identified application. No amendments are being filed with this request. This request is being filed with the Notice Of Appeal. The review is requested for the reasons stated below.

The Final Rejection dated July 11, 2006 must be withdrawn because the arguments presented in the Applicant's Response dated April 19, 2006 were not properly answered by the Examiner in that Final Rejection, as required by Section 707.07(f) of the M.P.E.P. Absent such a proper answer to the Applicant's Response, the issues are not ripe for appeal.

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Specifically, in that Final Rejection, the Examiner failed to address the Applicant's arguments that (1) the La Rocca reference is non-analogous art to the claimed invention and, therefore, should not be considered at all when evaluating the patentability of the claimed invention, and (2) even if it is proper to consider the disclosure of the La Rocca reference, the claimed invention is not obvious because there is no motivation for combining the references in the manner proposed by the Examiner. These important issues must be adequately addressed by the Examiner in order to determine if an appeal is appropriate.

First, the Examiner failed to address the applicant's argument that the La Rocca reference is non-analogous art to the claimed invention and, therefore, should not be considered at all when evaluating the patentability of the claimed invention. As discussed in detail in the Applicant's Response dated April 19, 2006, the La Rocca reference is neither (1) in the field of the applicant's endeavor nor (2) reasonably pertinent to the particular problem with which the inventor was concerned. For the sake of brevity, those arguments will not be repeated here. However, the Final Rejection dated July 11, 2006 completely failed to address those arguments.

Second, the Examiner failed to address the applicant's arguments that even if properly considered, the La Rocca reference teaches away from the claimed invention as defined in Claim 1 and fails to provide any motivation for combining the references in the proposed manner. As discussed in detail in the Applicant's Response, the La Rocca reference discloses that the use of permanent deformation techniques is undesirable and, therefore, provides "a method of manufacturing structural sheet metal products, designed to overcome the drawbacks typically associated with the aforementioned known techniques" (Column 2, Lines 10-13). Again, for the sake of brevity, those arguments will not be repeated here. However, the Final Rejection dated July 11, 2006 also completely failed to address those arguments.

In the Advisory Action dated October 12, 2006, the Examiner stated that the Applicant's arguments were answered in the Final Rejection dated July 11, 2006. This statement is simply incorrect. There is nothing whatsoever contained in that Final Rejection that addresses the two arguments presented above. Inasmuch as such

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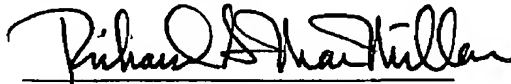
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arguments provide the basis for the Applicant's basis for patentability, the failure of the Examiner to properly answer them is a fatal flaw.

Section 707.07(f) of the M.P.E.P. states that in "order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application." Because the Examiner failed to do this in the Final Rejection dated July 11, 2006, withdrawal of the Final Rejection and reconsideration of the application is appropriate.

Respectfully submitted,



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